

Intergovernmental Water Board (IWB)

Meeting Minutes

April 11, 2007

**Tigard Water Building
8777 SW Burnham Street
Tigard, Oregon**

Members Present:

Gretchen Buehner	Representing the City of Tigard (arrived 5:32 p.m.)
Patrick Carroll	Representing the City of Durham
George Rhine	Representing the Tigard Water District
Bill Scheiderich	Member at Large
Dick Winn	Representing the City of King City

Members Absent: None

Staff Present: Public Works Director Dennis Koellermeier
Water Quality/Supply Supervisor John Goodrich
IWB Recorder Greer Gaston

Note: Agenda items are recorded in the minutes in the order they were considered. This order varies from the agenda, thus the discrepancy in numbering.

1. Call to Order, Roll Call and Introductions

Commissioner Scheiderich called the meeting to order at 5:29 p.m.

3. Public Comments

Julie Russell, 12662 SW Terraview, expressed concerns about declaring the Canterbury property surplus and transferring ownership of the water building. She questioned whether the Tigard Water District (TWD) had decided or voted on the matter. She also expressed concern over the lack of public involvement associated with these transactions.

Note from Subsequent IWB Meeting:

With regard to the disposition of the Canterbury property, Commissioner Rhine clarified the Tigard Water District had not taken a vote, but had engaged in a lengthy discussion of the issue.

The IWB approved the addition of this notation to these minutes at its May 9, 2007, meeting.

Commissioner Rhine responded, with regard to the water building, the TWD had agreed to pursue the “tenants in common” proposal and to use this as a model for other property issues.

Ken Henschel, 14530 SW 144th Avenue, expressed confusion over the IWB considering a resolution on the Canterbury property when the TWD had not voted on the matter.

The Commissioners and audience members discussed procedural issues, and what action the TWD had taken or might take regarding declaring a portion of the Canterbury property surplus. Mr. Koellermeier clarified disposition of the property was an IWB action and whether the TWD Board had voted was immaterial.

Commissioner Buehner explained when the IWB was created by intergovernmental agreement (IGA) in the early 1990's, each of the IWB members were to be assigned a share of the former TWD assets. This assignment of assets never occurred. The IWB's actions related to the disposition of property are in accordance with the IGA and are akin to housekeeping measures.

With the exception of entering into a long-term water contract, IWB Commissioners can vote on an issue, whether or not that issue had been discussed with the entity they represent.

Mr. Henschel questioned implementing housekeeping measures thirteen years after the original IGA and requested a more public process.

2. Approval of Minutes – February 14, 2007

Commissioner Buehner motioned to approve the February 14, 2007, minutes; Commissioner Carroll seconded the motion. The motion was approved by unanimous vote.

5. Consider a Resolution Regarding the Tualatin Basin Water Supply Project (Hagg Lake Dam Raise) Title Transfer

Mr. Koellermeier explained this was a resolution of support to advocate for the title transfer of property related to the Tualatin Basin Water Supply Project. The proposal is to transfer the property from the federal government to a local agency. Local ownership is expected to expedite the project and reduce costs by eliminating federal bureaucracy. A title transfer would not commit the IWB to any action. Mr. Koellermeier and Tigard City Manager Prosser, along with other delegates, will be going to Washington, D.C. to lobby for the title transfer.

IWB RESOLUTION NO. 07-01 - A RESOLUTION OF THE INTERGOVERNMENTAL WATER BOARD TO INVESTIGATE POTENTIAL TRANSFER OF TITLE OF ALL LANDS, FACILITIES AND OTHER ASSETS OF THE UNITED STATES BUREAU OF RECLAMATION TUALATIN PROJECT TO LOCAL OWNERSHIP

Commissioner Carroll motioned to adopt the resolution regarding the Tualatin Basin Water Supply Project (Hagg Lake Dam Raise) Title Transfer; Commissioner Buehner seconded the motion.

IWB Resolution No. 07-01 was approved by unanimous vote.

6. Consider a Resolution to Recommend that a Portion of the Canterbury Property be Declared as Surplus

Mr. Koellmermeier noted a revised version of the resolution had been prepared based on edits from Commissioner Scheiderich. The revised resolution and a map, labeled Exhibit 1, were distributed to the IWB and audience members.

Commissioner Carroll remarked the resolution reflected exactly what the IWB had discussed.

The IWB talked about the section of proposed surplus property leased by the John Tigard House. Via the appraisal process, the value of this leased property would be established. The appraised value would reflect the fact this area is not useable as long as the John Tigard House is situated there.

The IWB discussed the easement in the southeast corner of the proposed surplus property. This easement could be used for a future aquifer storage and recovery (ASR) site and needs to be located as far away from the existing Canterbury ASR well as possible.

The IWB discussed placing another easement across the property to link the easement in the southeast corner to the Canterbury water facility. Because this easement might lower the property value and an alternative connection could be accomplished by way of Murdock Street and an alley running along the west side of the property, the consensus of the Board was not to pursue a second easement.

IWB RESOLUTION NO. 07-02 - A RESOLUTION OF THE INTERGOVERNMENTAL WATER BOARD (IWB) RECOMMENDING TO THE TIGARD CITY COUNCIL THAT A PORTION OF THE CANTERBURY PROPERTY BE DECLARED SURPLUS AND ADDRESSING OTHER ISSUES RELATED TO THE DISPOSITION OF THE PROPERTY

Commissioner Carroll motioned to adopt the resolution recommending to the Tigard City Council that a portion of the Canterbury property be declared surplus and addressing other issues related to the disposition of the property; Commissioner Winn seconded the motion.

Commissioner Scheiderich called for public comment and discussion.

Julie Russell, 12662 SW Terraview, requested the record be left open until the next meeting to allow for public comment. She added the current public record does not show the TWD has authorized the sale of the property. She suggested three appraised values be obtained on the property.

Commissioner Scheiderich advised the IWB's resolution was a recommendation to the Tigard City Council and the disposition of surplus Canterbury property had been under consideration for a long time. He suggested concerns about the TWD proceedings be directed to that Board.

With regard to the following statement in the resolution:

WHEREAS, the Tigard Water District (TWD), owner of record for the Canterbury property, has authorized the sale of the property, at not less than the appraised value, to the City of Tigard for the purpose of constructing a park; and

Ken Henschel, 14530 SW 144th Avenue, questioned whether the TWD had authorized the sale of the property and whether the property would be sold to the City of Tigard.

Commissioner Rhine responded the minutes detailing the TWD's discussion of the sale of the property had not been approved yet.

It was noted a "whereas clause" was not legally binding, this part of the resolution generally relays background information. Items detailed in the section numbers of the resolution show what the Board resolves to do and contain the actual substance of the document. Commissioner Scheiderich pointed out that although the City of Tigard has the first right to buy the property at the appraised value, the property could be sold to another party if this sale did not work out.

Commissioner Carroll added the 1993 IGA, which established the IWB, deeded this property to the members of the IWB, but the paperwork was never completed. The IGA remains a legally binding contract and the TWD has no authority to stop the sale of the property as each IWB member owns a share of this asset.

Regarding Section 6 of the resolution:

Any proceeds from the sale of the Property shall be credited to the Water Capital Improvement Project Fund.

Mr. Henschel asked why proceeds from the sale of the property would not be divided among IWB members.

The Commissioners responded the IWB had decided to place any proceeds from the sale of water assets into the Water Capital Improvement Fund. This fund is managed by Tigard for the benefit of all of the members and will offset the cost of future water system improvements.

IWB Resolution No. 07-02 was approved by unanimous vote.

7. Building/Asset Discussion Continued from February 14, 2007 Responses to Questions from Attorney Ramis

Attorney Tim Ramis sent a memo to the IWB requesting clarification on the following points related to the disposition of the water building:

1. Is immediate purchase the preferred alternative by the City of Tigard, or is some form of joint ownership preferred until the time comes to dispose of the property?

The Board confirmed the following points:

- The water building should be transferred into the names of each of the entities (Durham, King City, Tigard and the Tigard Water District) based upon their respective joint ownership interest as tenants in common.
- Mr. Koellermeier reported he has provided Mr. Ramis with an allocation formula.
- The water building is being deeded, but not sold.

2. In the event that a form of joint ownership is preferred, will the decision to dispose of the property:

- (1) Rest in the control of a majority of the ownership (based on ownership percentage);
- (2) Require agreement of all owners; or
- (3) Be based on some other form of control such as a majority of the entities with an interest?

Commissioner Buehner asserted one entity should not be able to block the wishes of the other members.

The Board concurred and decided three of the four entities, with the member at large abstaining, would need to reach agreement on the disposition of the property.

Mr. Koellermeier said Mr. Ramis should now have all the information he needs and the Board should have a document to review at their next meeting.

4. Update on Water Supply Options

Mr. Koellermeier provided the following updates:

Hagg Lake Dam Raise (Tualatin Basin Water Supply Project)

- Draft Environmental Impact Study is due in June, followed by a 90-day comment period.
- Then partners will decide on which option to pursue and who will participate in the project.

Lake Oswego Expansion & Water Partnership

- A joint meeting between the IWB, and Lake Oswego and Tigard City Councils might be scheduled in the near future. The Lake Oswego Council is focusing on water conservation efforts.

Willamette River Treatment & Transmission Improvement Project

- WaterWatch filed an appeal regarding water right permits. This creates a contested case hearing situation, which should be a 90-day process.
- The Water Resources and Fish and Wildlife Departments are expected to side with the Willamette River Water Coalition (WRWC) since the Coalition is following their recommendations.
- With the enactment of a new law, the State appears to be granting in-stream rights for fish while circumventing established water rights.
- The Willamette River has enough flow to accommodate fish, with very little impact on WRWC water rights.

Recent indications are the Tualatin Valley Water District (TVWD) may be leaning toward the Joint Water Commission's (JWC's) Hagg Lake Dam Raise project as opposed to the Willamette River Improvement Project. Tigard and the TVWD have equal positions with regard to water access within the JWC partnership, but the TVWD already has the infrastructure to transport the water; Tigard does not.

Mr. Goodrich reported the following:

- Water customers are currently using about 4.4 million gallons per day (mgd). This is comparable to last year's consumption.
- 206 million gallons (mg) of water are stored in the City's aquifer storage and recovery (ASR) wells. With some operational adjustments, the plan is to inject another 50 mg within the next month. By purchasing and storing additional non-contract water, there is a potential cost savings of \$61,000.
- A test well will be drilled at the ASR 3 site in the next month. The viability of the well will be determined in the next six months.

8. Informational Items

In response to an inquiry, Mr. Koellermeier reported construction of the new reservoir will begin in late July or early August. The earth-work needs to be done by fall and should take about a month.

Executive Session – Real Property Transactions

Commissioner Carroll motioned for the Board to go into executive session; Commissioner Buehner seconded the motion. The motion was approved by unanimous vote.

At 6:30 p.m., the Board went into executive session to discuss real property transactions under ORS 192.660(2)(e).

The Board came out of executive session at 6:36 p.m.

9. Non-Agenda Items: None

10. Next Meeting – Wednesday, May 9, 2007, 5:30 p.m.

**Tigard Public Library, 2nd Floor Conference Room, 13500 SW Hall Blvd.,
Tigard, Oregon**

11. Adjournment

At 6:36 p.m. Commissioner Carroll motioned to adjourn the meeting; Commissioner Rhine seconded the motion. The motion was approved by unanimous vote.



Greer A. Gaston, IWB Recorder

Date: April 11, 2007